

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

13.3.05
13.4.05

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2004/002517

International filing date (day/month/year)
11.06.2004

Priority date (day/month/year)
13.06.2003

International Patent Classification (IPC) or both national classification and IPC
G06F21/00, G11B20/00, G11B20/18

Applicant
MACROVISION EUROPE LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**International application No.
PCT/GB2004/002517

IAP8 Rec'd PCT/GB 07 DEC 2005

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. II Priority

1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	3, 8, 11, 15-19, 30, 35, 38, 41-45
	No: Claims	1, 2, 4-7, 9, 10, 12-14, 20-29, 31-34, 36, 37, 39, 40
Inventive step (IS)	Yes: Claims	
	No: Claims	1-45
Industrial applicability (IA)	Yes: Claims	1-45
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rules 43*bis*.1 and 70.10)

and / or

2. Non-written disclosures (Rules 43*bis*.1 and 70.9)

see form 210

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Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

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Re Item V.

1 The following documents are referred to in this communication:

- D1** : OPION: "Copying Copy Protected CD's" EBCVG.COM, [Online] 5 April 2003 (2003-04-05), XP002293077 Retrieved from the Internet:
URL: <http://www.ebcvg.com/articles.php?id=126>>; [retrieved on 2004-08-13]
- D2** : HALDERMAN J A: "Evaluating New Copy-Prevention Techniques for Audio CDs" ACM WORKSHOP ON DIGITAL RIGHTS MANAGEMENT, XX, XX, November 2002 (2002-11), pages 1-14, XP002284281
- D3** : G@M3FR3@K: "What is RAW?" CD FREAKS.COM, [Online] 1 May 2001 (2001-05-01), XP002293078 Retrieved from the Internet:
URL: <http://knowhow.cdfreaks.com/article.php?ID=118>>; [retrieved on 2004-08-13]
- D4** : "Insektors" GOWAP, [Online] 19 May 2002 (2002-05-19), XP002293079 Retrieved from the Internet:
URL: <http://gowap2002.free.fr/html/insektors.htm>>; [retrieved on 2004-08-16]
- D5**: WO 00/23993 (THOMSON MULTIMEDIA) 27 April 2000 (2000-04-27)
- D6**: KELIN J. KUHN: "CD-ROM -- An extension of the CD audio standard"[Online] 25 March 2003 (2003-03-25), XP002293081 Retrieved from the Internet: URL: <http://www.ee.washington.edu/conselec/CE/kuhn/cdrom/95x8.htm>> [retrieved on 2004-08-13]

2 INDEPENDENT CLAIM 1

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claim 1** is not new in the sense of Article 33(2) PCT. Document D1 discloses a method of copying a copy protected optical disc (see title), the method comprising the steps of reading from an optical disc at a selected level which differs from the user data level, and writing the data read from said selected level to an optical disc to create usable copy of a copy protected optical disc (pg.4, "Raw writers").
- 2.2 For the sake of completeness it is added that D3 discloses a detailed description of writing in RAW mode, which could complete the understanding of D1. The data is read directly from the error corrected level together with any error correction codes and writes the data to an optical disc (SAO-RAW).

2.3 The present application does also not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT. Document D2 evaluates new copy-prevention techniques for audio CDs. It discusses how software and hardware can be adapted to read discs with copy prevention technology (pg.9). It also explains how the TOC included in a subchannel in the Lead-In of the recording frame can be read (pg.6) and gives hints on how the Lead-In, and in particular the TOC, could be modified or even how a new one could be created (pg.9-10). Obviously, the TOC is also not read in a user data level.

2.3 Finally bit-to-bit duplication of a DVD as mentioned in document D5 would also fall into the scope of protection of claim 1. The data is definitely read from a selected level different to the user data level, in particular from the encoded data level.

3 INDEPENDENT CLAIMS 20 AND 28

3.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claim 20** is not new in the sense of Article 33(2) PCT. Documents D1-D3 and D5 mentioned before, all disclose implicitly or explicitly means of reading and writing data at a selected level different from the user level (see passages in section 2 of this Written Opinion).

3.2 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claim 28** is not new in the sense of Article 33(2) PCT. The same as above (Section 3.1) applies to software or firmware comprising instructions to carry out the method of claim 1. Obviously this kind software is disclosed in all of the above discussed documents.

4 DEPENDENT CLAIMS 2-19, 21-27, 29-45

Dependent claims 2-19, 21-27, 29-45 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT). The reasons as follow:

4.1 The subject-matter of **claims 2, 4 and 5** is known from D1 and D3. In both documents the data is read at the error corrected level and as explained above the data is read together with the error correction codes to be written to an optical

- disc. Moreover, document D1 suggest tools (pg. 5, l.2-4) to correct error correction codes while reading them in the same manner as in **claim 4**.
- 4.2 The subject-matter of **claims 7-10** was also anticipated by D1. This document mentions several different methods and software applications to read the data from a data frame level and repair or generate new additional codes. In page 5, Betablocker and Deamon Tools are described. In addition to this, the new version of Insektors dated on 19.5.2002 and disclosed by D4 replaces protected sectors (difficult to read or write) by other easy to reproduce and containing a signature (pg.1, par.5).
- 4.3 **Claims 11-13** do not contain any inventive features and is merely one of several straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill, in order to solve the problem posed. Moreover, bit-to-bit copying described by document D5 matches the teaching of claim 12.
- 4.4 The subject-matter of **claims 14-19** also do not add anything inventive in the light of the disclosure of D2. This document discloses the possibility of modifying or deriving a correct Lead-In for the optical disc which is being written (pg.6, par.3-pg.9, par.4). The specification of the content in the Lead-In is not considered inventive. The subject-matter of claims 18 and 19 are also considered obvious selections for a skilled person.
- 4.5 The subject-matter of **claims 21-25 and 27** appear to be only listings of standard components on compliant optical disc writers and readers. The subject matter of independent **claim 26** corresponds in terms of apparatus features to that of claim 9. The objections raised in respect of this latter claim; therefore, also apply, mutatis mutandis, to claim 26. Software or firmware comprising non inventive instructions will also not be considered inventive. This applies to **claims 30-45**.

Re Item VII.

- 5 The application does not meet the requirements of Article 6 PCT, because claims 1, 20 and 28 are not clear. It is not clear to the reader whether, after reading the data from the optical disc at a selected level other than the user data level, the data is 1) written directly to an optical disc, i.e. without encoding, scrambling, etc.;

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or 2) written to an optical disc treating the data as in a compliant writer. In case of
2) please reword the claim for it to be unambiguously derivable.